

**REMARKS — General**

Subsequent to the Office Action mailed April 4, 2003, Applicant has amended the specification and claims. Applicant respectfully submits the application is currently allowable as to all claims.

**THE SPECIFICATION HAS BEEN CORRECTED TO INCLUDE A BRIEF DESCRIPTION OF ALL DRAWINGS**

Paragraph 1 of the Office Action objected that the disclosure of the Application did not include a brief description of Figures 7 and 7A. By the above amendment, applicant has included a brief description of Figures 7 and 7A. Therefore, applicant respectfully requests reconsideration and allowance of the specification.

**THE OBJECTIONS UNDER THE FIRST PARAGRAPH OF 35 U.S.C. § 112 ARE OVERCOME**

The Office Action objected that claims 17-20 contained subject matter not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. In particular, the Office Action stated that it was unclear how the rigid head-support portion and the rigid base portion are included in a single inflatable structure, per claim 17, and how an inflatable structure forms, when inflated, a rigid base portion and includes a rigid head-support portion, per claim 18.

Applicant submits that the original drawings and specification adequately describe the embodiment to enable one skilled in the art to make and/or use the invention. The head-support and base portions are not independent parts of the inflatable embodiment, but are—in both structure and function—embraced by and comprised within a single inflatable component of appropriate shape—as indicated in the specification and drawings. For instance, the tear-drop shape depicted in FIGS. 7 & 7A will do the job, as will another shape which presents a surface for the head to rest against, and a surface to rest against the seat back, set within a structure such that the surface supporting the user's head and

face, under the weight of the head, does not collapse backwards toward the seat back. This structure, described by the drawings and specification, is not complex, but it is effective. The drawings and specification make a complete disclosure of this structure.

Although Applicant maintains that the original specification, including the drawings, describes this inflatable embodiment adequately, Applicant has amended the specification to add a “For instance ...” sentence and an “It may be observed ...” sentence. Although these sentences add no new matter, they may avoid any possibility of confusion and may serve to expedite the reader’s understanding of the drawings and disclosure.

**THE OBJECTION TO THE CLAIMS UNDER THE SECOND PARAGRAPH  
OF 35 U.S.C. § 112 IS OVERCOME**

The Office Action rejected claims 11–20 as being indefinite, stating that it was not clear whether the seat back was claimed as part of the invention. This objection was raised previously in the first office action regarding this application, and Applicant’s prior amendments were not accepted as having cured this problem. Applicant appreciates the guidance of the present Office Action in suggesting the use of “adapted for” or “adapted to” recitations in the claims. The claims have been amended, or cancelled and re-written, accordingly, and “adapted for” language is used to make it clear that the seat back is not claimed as part of the invention. The amended claims have also been amended so that all references to a “seat back” have proper antecedent basis.

Also, the Office Action stated that in line 12 of claim 18, “the user’s” lacked proper antecedent basis. Claim 18 has been amended so that all terms have proper antecedent basis.

The Office Action additionally stated that in claim 20, the recitation “arranged such that said strap loop the weight of said user’s head” was grammatically vague. Claim 20 has been amended to correct this recitation.

In view of the foregoing, the applicant submits that claims 12–21 are allowable under the second paragraph of 35 U.S.C. § 112, and Applicant respectfully solicits reconsideration and allowance thereof.

#### **THE OBJECTION TO THE DRAWINGS UNDER 37 CFR 1.83(a) IS OVERCOME**

The Office Action objected that, under 37 CFR 1.83(a), the drawings must show the rigid head-support and base portions in combination with an inflatable structure. Applicant submits that the drawings, Figure 7 and Figure 7A, do show the head-support portion 14 and the base support portion 15 within the inflatable structure 36. As discussed above, the description and drawings regarding the alternative inflatable-structure embodiment makes a complete disclosure of this structure. Therefore, no corrected drawings have been submitted, as Applicant respectfully submits that the original drawings fully comply with 37 CFR 1.83(a). Applicant therefore respectfully solicits reconsideration and allowance of the drawings.

#### **THE OBJECTION TO THE CLAIMS UNDER 35 U.S.C. § 102 IS OVERCOME**

Applicant’s amended claim 21 defines patentably over Dickey (4619483). Dickey’s device and Applicant’s invention are entirely different. Applicant’s device consists of a portable headrest with means for being releasably attached to a chair. Dickey’s appliance, on the other hand, comprises a shoulder support and a hip bolster, and “[a] padded headrest ... mounted on the shoulder support”. (Dickey, col. 2, lines 16-17.) Dickey’s headrest cannot be used at all without the shoulder support also being attached to the chair. Applicant’s

headrest is distinct in that it may be releasably attached directly to the seat back of a chair, without any extra bulk, such as a shoulder support.

Dickey provides no means for attaching the headrest directly to the seat back without using the shoulder support. Dickey's headrest lacks the base portion of applicant's invention (Dickey, col. 2, lines 11-22, and Fig. 6).

The portion of Dickey's device referenced in the Office Action as "the base portion" 32 is identified by Dickey as the plywood section of the shoulder support (Dickey, col. 3, lines 25-27, and col. 4, lines 18-20). Further, the aspect of Dickey's device referenced as a "head-support portion" 46 in the Office Action is the plywood core of the "hip bolster"—designed for supporting a person's hips, not his or her head. Dickey's shoulder support and hip bolster do not resemble Applicant's head-support portion and base portion at all—neither in structure nor in function.

Applicant's novel base portion provides a structure that permits sturdy and secure attachment to a seat back without bulky attaching means, such as the system described by Dickey in which the headrest is mounted on the shoulder support, and the shoulder support is secured to the seat back with a rod arching over the top of the seat back, interacting with corresponding tubular sockets protruding from the rear of the seat back (Dickey, Fig. 6). Dickey's device requires a specially fitted chair and a shoulder support for securing the headrest. (See, generally, Dickey, col. 5, lines 2-49.) Applicant's portable headrest requires neither. Thus, even if Dickey taught a means for attaching the headrest without the shoulder rest—which it does not—applicant's attaching means would be superior in that they require no special chair nor any destructive alterations to a chair not specially constructed to receive a headrest or shoulder support.

Many persons will not want a shoulder rest or hip bolster constraining their arm and body. Thus, applicant's invention offers substantial advantages over Dickey. In addition, Dickey's device, to the extent it may be suitable for the physically handicapped, as Dickey suggests, is not suitable at all for airline, rail, or bus passengers trying to find restful sleep while sitting upright in a chair. Dickey's item is far too bulky for such an application, and passenger seats on airplanes, trains, and buses do not have the special coupling attachments needed for securely engaging Dickey's apparatus. Indeed, Dickey never suggests using her device for healthy passengers traveling on common-carrier transport.

It may also be noted that Dickey's attaching means allow the headrest portion to be varied in terms of its vertical position on the chair, but not its horizontal position across the seat back: "The mounting means provides for adjustability of the headrest to give various vertical height positions of the headrest along the shoulder support." (Dickey, col. 2, line 16-24.)

Neither does Dickey's patent render Applicant's claimed invention to be obvious. Dickey does not suggest Applicant's base portion, nor does Dickey suggest means for attaching a headrest to a chair that does not require a specially fitted chair or destructive modification to an existing chair.

Applicant's claim 16 is a dependent claim of claim 21—it specifies a right-angle orientation of the base portion and the head-support portion. This dependent claim incorporates the subject matter of independent claim 21 and is therefore *a fortiori* patentable over Dickey. The right-angle orientation of the base portion and the head-support portion is unique in combination with the novel structure of Applicant's headrest as independently claimed in claim 21.

In view of the foregoing reasons, applicant respectfully solicits reconsideration and allowance of claims 21 and 16.

**THE OBJECTION TO THE CLAIMS UNDER 35 U.S.C. § 103 IS OVERCOME****Claim 12 Is Patentable Over Dickey In View Of Fishbane**

The Office Action rejected claim 12 as unpatentable over Dickey in view of Fishbane (5630651). Claim 12 has been amended. Claim 12 is a dependent claim of independent claim 21. Claim 12 adds the additional element of a convex cushioning portion on the head-support portion. Because Dickey neither discloses nor renders obvious the invention claimed in independent claim 21, the consideration of Fishbane does not render obvious the invention claimed in dependent claim 12.

Further, claim 12 is not obvious because Fishbane does not disclose the convex cushioning portion claimed by Applicant. The convex cushion of claim 12 is patentably novel over Fishbane. Fishbane's lateral supports are comprised of cylinders, not convex cushions. These cylinders extend outward from the seat back only a short distance. This will allow the head to roll forward and around the lateral support portions. Claim 12 defines patentably over this reference. The convex cushion of claim 12 is a different shape than the cylindrical lateral elements of Fishbane's pillow. The convex or dome shape of Applicant's invention allows the headrest to accommodate a variety of angles and positions relative to the user's face and head, including allowing a range of lateral bending of the neck. Fishbane's cylinders present a parallel surface to the user's spine, which, to the extent it would work, is then "maintaining the user's head in a straight ... position" (Fishbane Abstract and also at col. 2, lines 53-54). The lateral support of Applicant's invention is adequate to laterally support the user's head despite the head not being fully reclined.

**Claim 13 Is Patentable Over Dickey In View Of Franzen**

The Office Action rejected claim 13 as unpatentable over Dickey in view of Franzen (5685613).

Claim 13 has been amended. Claim 13 is a dependent claim of independent claim 21. Claim 13 specifies the attaching means comprise two straps, the ends of which are attachable with a length adjustable buckle. Because Dickey neither discloses nor renders obvious the invention claimed in independent claim 21, the consideration of Franzen does not render obvious the invention claimed in dependent claim 13. Regardless, Franzen's device does not render the invention of dependent claim 13 obvious to a person having ordinary skill in the art. Multiple unsuggested additional steps are required before one could build the invention of claim 13. Therefore, applicant respectfully solicits reconsideration and allowance of claim 13.

**CONDITIONAL REQUEST FOR CONSTRUCTIVE ASSISTANCE AND WRITING OF CLAIMS**

Applicant has amended the specification and claims so that they are proper and definite, and define novel, nonobvious structure. If, for any reason, this application is believed not to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to MPEP § 2173.02 in order that the applicant can place this application in allowable condition as soon as possible and without the need of further proceedings.

Further, it is submitted that the applicant has clearly presented patentable subject matter. If the Examiner agrees, but does not feel that the present claims are technically adequate, applicant respectfully requests that the Examiner write acceptable claims pursuant to MPEP 707.07(j).

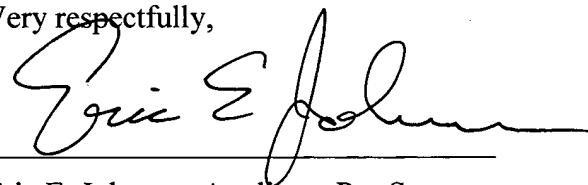
**CONCLUSION**

For all the reasons given above, and on the basis of the amended specification and claims, applicant respectfully submits that the specification is complete, that the claims are in compliance with

35 U.S.C. § 112, and that the claims define patentable subject matter under 35 U.S.C. §§ 102 and 103.

Accordingly, the applicant submits that this application is now in full condition for allowance, which action applicant respectfully solicits.

Very respectfully,

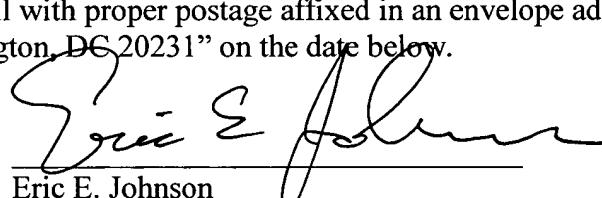


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Date: October 6, 2003

  
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